

# REQUEST FOR INFORMATION

## **The State Bar of California Lawyer's Professional Liability Insurance Joint Venture**

This is a Request for Information (“RFI”) to survey the professional liability insurance market. The primary purpose of this RFI is to obtain information regarding possible arrangements for the establishment of a Lawyer’s Professional Liability Insurance Program run by the State Bar of California.

### **I. Introduction**

The State Bar of California (“State Bar”), created in 1927 by the Legislature and written into the constitution as a judicial branch agency in 1960, is a public corporation within the judicial branch of state government. The State Bar acts as the administrative arm for the California Supreme Court to oversee the discipline and admission of attorneys. The State Bar is also by statute and court rule required to administer a continuing mandatory education program, a client security fund, an Interest on Lawyers’ Trust Account program and a Lawyers Assistance program for attorneys whose professional competence is compromised by drug/alcohol abuse or mental illness. The above responsibilities are all entrusted to the State Bar to maximize protection of the public and maintain high professional standards within the profession .

California is currently experiencing a climate of crisis in the professional liability insurance market, resulting in carriers substantially increasing rates, discontinuing coverage, or leaving the state altogether. The State Bar seeks to address this problem, which seems to be cyclical, by researching the possibility of enhancing its role in the management and administration of a voluntary comprehensive professional liability program.

Since 1989, as a service to its over 190,000, the State Bar has sponsored a professional liability insurance program. The State Bar is interested in the possibility of establishing a joint venture in which workload and fees would be shared between the State Bar and a licensed broker or insurance agency, with the expectation that eventually the State Bar would fully service the program to offer a range of insurance options providing protection to the public and offering California’s attorneys a centralized and secure source of insurance options to supplement its other professional practice assistance and support programs. If this program is successful, the State Bar may also consider a joint venture to provide other insurance programs for its members. Currently, the State Bar sponsors professional liability, business office package, life, disability, long-term care, workers’ compensation, and accidental death and dismemberment insurance programs.

## II. Background

The State Bar has approximately 190,000 members, of which approximately 140,000 are “active” members (only active members are entitled to practice law). On average, around 4,500 new members are admitted each year. Over 100,000 members are in law firms of 20 or fewer lawyers. Approximately 50,000 are in firms of 10 or fewer, most as solo practitioners.

Among the services provided to its members, the State Bar offers a professional liability insurance program. Approximately 6,600 lawyers are presently insured under the program, providing premium revenues of approximately \$32,300,000. Retention rates are just under 80%. The average firm size insured through the State Bar program is 1.6 lawyers.

The Committee on Professional Liability Insurance, a committee made up of volunteer attorneys with experience in the field of professional liability insurance, oversees the program. The State Bar’s direct connection with the program is limited to selecting the agent and negotiating the terms of its relationship with the State Bar. Currently, Marsh Affinity Group administers the program. The State Bar receives a percentage of the premiums, which is used to fund, among other things, lawyer competency training and other programs to reduce professional liability claims under the insurance program.

In the current fluid lawyers’ professional liability market, maintaining the stability and quality of coverage for State Bar members at a competitive cost has been challenging.

The State Bar would like explore the possibility of improving the quality and cost of its product and substantially increasing market penetration from the current level, perhaps by more actively marketing the program under the State Bar name in concert with a range of practice assistance programs. The State Bar’s goals generally are improving the quality of service to State Bar members, protecting the public, and providing additional revenue to the State Bar to, *inter alia*, fund loss prevention and lawyer educational programs.

The State Bar believes that a joint venture with an insurance agency may provide a good vehicle to achieve these goals. We conceptualize a joint venture in which the State Bar would act as the named agency, and would share the workload and fees with an existing agency for several years, working toward the goal of becoming a stand-alone agency.

The State Bar would appreciate your answers to the questions below to assist us in exploring the idea of establishing this type of project and understanding the market for this type of relationship. In addition, we welcome any additional information or suggestions.

No contract will be awarded based on this RFI. Participation in the RFI is optional; a response to this RFI is not a requirement of any subsequent procurement. This RFI and any responses to it are non-binding – neither the State Bar nor any respondents to this

RFI have any obligations under the RFI. Responses may be used to structure a Request for Proposals (RFP), from which a contract may be awarded. If the State Bar decides to create a RFP, a copy will be distributed to all responders to this RFI and will be posted on the State Bar website.

### **III. Information Requested**

The State Bar requests that you provide answers to the following questions in order to survey the market regarding possible arrangements for delivering lawyers' professional liability insurance to its members. The State Bar's primary goal is to determine the most effective way to deliver a stable, high quality product at competitive cost, while increasing its non-dues revenue.

1. Do you have prior experience with this type of joint venture? If so, please provide details.
2. What would you suggest as the structure of a joint venture, and the sharing of workload and revenues?
3. What staff and cost would you expect the State Bar to provide in the initial phase of a joint venture, and later to operate a stand-alone agency?
4. What is your view of the lawyer's professional liability market now and in the near future, and how should the State Bar take that into account in establishing or structuring a joint venture?
5. What is your experience in developing marketing plans and product development for lawyers professional liability programs, and in administering them?
6. What would you expect to be the range of revenues available to the State Bar from such a joint venture? From a stand-alone agency?
7. Do you expect that this type of joint venture would enable the State Bar to increase penetration of the lawyer's professional liability insurance market, and if so by approximately how much?
8. Please describe your experience in dealing with governmental agencies, in a joint venture agency context or otherwise.
9. What suggestions can you make other than the joint venture described herein to improve the quality and stability of, and revenue from, the State Bar professional liability program?
10. What suggestions can you make for developing a statement of work to be used in a Request for Proposals?

11. If the State Bar issues a RFP, would you be interested in submitting a proposal?

#### **IV. Administration of this RFI**

Please submit three copies of your response to this RFI, titled “Request for Information: State Bar Lawyer’s Professional Liability Insurance Joint Venture” to:

Starr Babcock  
Special Assistant to the Executive Director  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105  
415-538-2070; fax 415-538-2305  
[Starr.Babcock@calbar.ca.gov](mailto:Starr.Babcock@calbar.ca.gov)

**The deadline for submission is July 11, 2003.**

Questions regarding this RFI must be submitted in writing. Answers to questions will be posted on the State Bar’s website, [www.ca.calbar.gov](http://www.ca.calbar.gov). This RFI is issued for information and planning purposes only and does not constitute a solicitation. Responses to this RFI are not offers and cannot be accepted to form a binding contract.

Responders are solely responsible for all expenses associated with responding to this RFI.

Responses to this RFI will not be returned.

Unless otherwise required by law, the State Bar will treat as confidential those confidential materials clearly marked as such.

The State Bar reserves the right to cancel or reissue this RFI, or to change the time for response or any other term of the RFI without obligation or liability.

This RFI will be posted at the State Bar’s website, [www.calbar.ca.gov](http://www.calbar.ca.gov), and mailed upon request.